

Health and Welfare, amending sections 2074, 2075, 2077, 2094, 2139, and 2153 of Title 42, and enacting provisions set out as notes under sections 3201, 3222, and 3262 of this title and section 2139 of Title 42] may be cited as the ‘Nuclear Non-Proliferation Act of 1978.’”

NUCLEAR PROLIFERATION PREVENTION; EFFECTIVE AND TERMINATION DATES OF 1994 AMENDMENT

Title VIII of Pub. L. 103-236, Apr. 30, 1994, 108 Stat. 507, known as the Nuclear Proliferation Prevention Act of 1994, was amended by Pub. L. 104-164, title I, §157, July 21, 1996, 110 Stat. 1440. As so amended, title VIII has been primarily transferred to chapter 72 (§6301 et seq.) of this title. For complete classification of title VIII to the Code, see Short Title note set out under section 6301 of this title and Tables.

ADVOCACY AND ENCOURAGEMENT BY UNITED STATES OF NONPARTIES TO TREATY ON NON-PROLIFERATION OF NUCLEAR WEAPONS TO BECOME SIGNATORIES; REPORT TO CONGRESS

Pub. L. 96-53, title V, §507, Aug. 14, 1979, 93 Stat. 378, as amended by Pub. L. 97-113, title VII, §734(a)(3), Dec. 29, 1981, 95 Stat. 1560, provided that:

“(a) In accordance with the Nuclear Non-Proliferation Act of 1978 [see Short Title note above], the Congress strongly urges all nations which are not parties to the Treaty on Non-Proliferation of Nuclear Weapons to become parties to that treaty.

“(b) [Repealed. Pub. L. 97-113, title VII, §734(a)(3), Dec. 29, 1981, 95 Stat. 1560.]”

EX. ORD. NO. 12058. FUNCTIONS RELATING TO NUCLEAR NON-PROLIFERATION

Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, provided:

By virtue of the authority vested in me by the Nuclear Non-Proliferation Act of 1978 (Public Law 95-242, 92 Stat. 120, 22 U.S.C. 3201) [see Short Title note above] and the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.), and Section 301 of Title 3 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. *Department of Energy.* The following functions vested in the President by the Nuclear Non-Proliferation Act of 1978 (92 Stat. 120, 22 U.S.C. 3201), hereinafter referred to as the Act, and by the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.), hereinafter referred to as the 1954 Act, are delegated or assigned to the Secretary of Energy:

(a) That function vested by Section 402(b) of the Act (92 Stat. 145, 42 U.S.C. 2153a).

(b) Those functions vested by Sections 131a(2)(G), 131b(1), and 131f(2) of the 1954 Act (92 Stat. 127, 42 U.S.C. 2160).

(c) That function vested by Section 131f(1)(A)(ii) of the 1954 Act [42 U.S.C. 2160(f)(1)(A)(ii)], to the extent it relates to the preparation of a detailed generic plan.

SEC. 2. *Department of State.* The Secretary of State shall be responsible for performing the following functions vested in the President:

(a) Those functions vested by Sections 104(a), 104(d), 105, 403, 404, 407, and 501 of the Act (92 Stat. 122, 123, 123, 146, 147, 148, and 148, 22 U.S.C. 3223(a), 3223(d), 3224, and 42 U.S.C. 2153b, 2153c, 2153e, and 22 U.S.C. 3261).

(b) That function vested by Section 128a(2) of the 1954 Act (92 Stat. 137, 42 U.S.C. 2157(a)(2)).

(c) That function vested by Section 601 of the Act [section 3281 of this title] to the extent it relates to the preparation of an annual report.

(d) The preparation of timely information and recommendations related to the President’s functions vested by Sections 126, 128b, and 129 of the 1954 Act (92 Stat. 131, 137, and 138, 42 U.S.C. 2155, 2157, and 2158).

(e) That function vested by Section 131c of the 1954 Act (92 Stat. 129, 42 U.S.C. 2160(c)); except that, the Secretary shall not waive the 60-day requirement for the preparation of a Nuclear Non-Proliferation Assessment Statement for more than 60 days without the approval of the President.

SEC. 3. *Department of Commerce.* The Secretary of Commerce shall be responsible for performing the function vested in the President by Section 309(c) of the Act (92 Stat. 141, 42 U.S.C. 2139a).

SEC. 4. *Coordination.* In performing the functions assigned to them by this Order, the Secretary of Energy and the Secretary of State shall consult and coordinate their actions with each other and with the heads of other concerned agencies.

SEC. 5. *General Provisions.* (a) Executive Order No. 11902 of February 2, 1976, entitled “Procedures for an Export Licensing Policy as to Nuclear Materials and Equipment,” is revoked.

(b) The performance of functions under either the Act or the 1954 Act shall not be delayed pending the development of procedures, even though as many as 120 days are allowed for establishing them. Except where it would be inconsistent to do so, such functions shall be carried out in accordance with procedures similar to those in effect immediately prior to the effective date of the Act.

JIMMY CARTER.

§ 3202. Congressional statement of purpose

It is the purpose of this chapter to promote the policies set forth above by—

(a) establishing a more effective framework for international cooperation to meet the energy needs of all nations and to ensure that the worldwide development of peaceful nuclear activities and the export by any nation of nuclear materials and equipment and nuclear technology intended for use in peaceful nuclear activities do not contribute to proliferation;

(b) authorizing the United States to take such actions as are required to ensure that it will act reliably in meeting its commitment to supply nuclear reactors and fuel to nations which adhere to effective non-proliferation policies;

(c) providing incentives to the other nations of the world to join in such international cooperative efforts and to ratify the Treaty; and

(d) ensuring effective controls by the United States over its exports of nuclear materials and equipment and of nuclear technology.

(Pub. L. 95-242, §3, Mar. 10, 1978, 92 Stat. 120.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 95-242, Mar. 10, 1978, 92 Stat. 120, known as the Nuclear Non-Proliferation Act of 1978. For complete classification of this Act to the Code, see Short Title note set out under section 3201 of this title and Tables.

§ 3203. Definitions

(a) As used in this chapter, the term—

(1) “Commission” means the Nuclear Regulatory Commission;

(2) “IAEA” means International Atomic Energy Agency;

(3) “nuclear materials and equipment” means source material, special nuclear material, production facilities, utilization facilities, and components, items or substances determined to have significance for nuclear explosive purposes pursuant to subsection 109b¹ of the 1954 Act [42 U.S.C. 2139(b)];

(4) “physical security measures” means measures to reasonably ensure that source or

¹ So in the original. Probably should be “section 109(b)”.

special nuclear material will only be used for authorized purposes and to prevent theft and sabotage;

(5) “sensitive nuclear technology” means any information (including information incorporated in a production or utilization facility or important component part thereof) which is not available to the public and which is important to the design, construction, fabrication, operation or maintenance of a uranium enrichment or nuclear fuel reprocessing facility or a facility for the production of heavy water, but shall not include Restricted Data controlled pursuant to chapter 12 of the 1954 Act [42 U.S.C. 2161 et seq.];

(6) “1954 Act” means the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.]; and

(7) “the Treaty” means the Treaty on the Non-Proliferation of Nuclear Weapons.

(b) All other terms used in this chapter not defined in this section shall have the meanings ascribed to them by the 1954 Act, the Energy Reorganization Act of 1974 [42 U.S.C. 5801 et seq.], and the Treaty.

(Pub. L. 95-242, §4, Mar. 10, 1978, 92 Stat. 121; Pub. L. 105-277, div. G, subdiv. A, title XII, §1225(e)(1), Oct. 21, 1998, 112 Stat. 2681-775.)

REFERENCES IN TEXT

The Atomic Energy Act of 1954, as amended, referred to in subsec. (a)(5), (6), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 921, and amended, which is classified generally to chapter 23 (§2011 et seq.) of Title 42, The Public Health and Welfare. Chapter 12 of the 1954 Act is classified generally to subchapter XI (§2161 et seq.) of division A of chapter 23 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 42 and Tables.

The Energy Reorganization Act of 1974, referred to in subsec. (b), is Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233, as amended, which is classified principally to chapter 73 (§5801 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of Title 42 and Tables.

AMENDMENTS

1998—Pub. L. 105-277 redesignated pars. (3) to (8) as (2) to (7), respectively, and struck out former par. (2) which read as follows: “‘Director’ means the Director of the Arms Control and Disarmament Agency;”.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-277 effective Apr. 1, 1999, see section 1201 of Pub. L. 105-277, set out as an Effective Date note under section 6511 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6305 of this title.

SUBCHAPTER I—UNITED STATES INITIATIVES TO PROVIDE ADEQUATE NUCLEAR FUEL SUPPLY

§ 3221. Congressional declaration of policy

The United States, as a matter of national policy, shall take such actions and institute such measures as may be necessary and feasible to assure other nations and groups of nations that may seek to utilize the benefits of atomic energy for peaceful purposes that it will provide a reliable supply of nuclear fuel to those nations

and groups of nations which adhere to policies designed to prevent proliferation. Such nuclear fuel shall be provided under agreements entered into pursuant to section 2201 of title 42 or as otherwise authorized by law. The United States shall ensure that it will have available the capacity on a long-term basis to enter into new fuel supply commitments consistent with its non-proliferation policies and domestic energy needs. The Commission shall, on a timely basis, authorize the export of nuclear materials and equipment when all the applicable statutory requirements are met.

(Pub. L. 95-242, title I, §101, Mar. 10, 1978, 92 Stat. 121.)

EFFECTIVE DATE

Subchapter effective Mar. 10, 1978, except as otherwise provided and regardless of any requirements for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95-242, set out as a note under section 3201 of this title.

§ 3222. Uranium enrichment capacity

The Secretary of Energy is directed to initiate construction planning and design, construction, and operation activities for expansion of uranium enrichment capacity, as elsewhere provided by law. Further the Secretary as well as the Nuclear Regulatory Commission and the Secretary of State are directed to establish and implement procedures which will ensure to the maximum extent feasible, consistent with this chapter, orderly processing of subsequent arrangements and export licenses with minimum time delay.

(Pub. L. 95-242, title I, §102, Mar. 10, 1978, 92 Stat. 122; Pub. L. 105-277, div. G, subdiv. A, title XII, §1225(e)(2), Oct. 21, 1998, 112 Stat. 2681-775.)

AMENDMENTS

1998—Pub. L. 105-277 substituted “and the Secretary of State” for “, the Secretary of State, and the Director of the Arms Control and Disarmament Agency”.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-277 effective Apr. 1, 1999, see section 1201 of Pub. L. 105-277, set out as an Effective Date note under section 6511 of this title.

§ 3223. International undertakings

(a) Development of international approaches for meeting future worldwide nuclear fuel needs; international nuclear fuel authority

Consistent with section 3224 of this title, the President shall institute prompt discussions with other nations and groups of nations, including both supplier and recipient nations, to develop international approaches for meeting future worldwide nuclear fuel needs. In particular, the President is authorized and urged to seek to negotiate as soon as practicable with nations possessing nuclear fuel production facilities or source material, and such other nations and groups of nations, such as the IAEA, as may be deemed appropriate, with a view toward the timely establishment of binding international undertakings providing for—

(1) the establishment of an international nuclear fuel authority (INFA) with responsibility